HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 968 of 2001
{Old No. 1405 of 1996}

Mohd. Saleem
S/o Mehmood
R/o Village Jatwara
P.S. Kotwali
District Muzaffarnagar .....Applicant

Versus

1. State of Uttaranchal
2. Akram S/o Syed Khan
   R/o Village Khedi Shikohpur
   P.S. Bhagwanpur
   District Haridwar .....Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri R.S. Sammal learned counsel for the applicant and Sri Nandan Arya learned A.G.A.

2. The petition under section 482 Cr.P.C. has been filed for quashing the chargesheet dated 29.9.1995 and the proceedings of case No. 33/1996 State Vs. V. S. Munawar & others pending in the court of Addl. Civil Judge (S.D.)/ A.C.J.M. Roorkee, District Haridwar.

3. It has been alleged that on 11.6.1995 the respondent No. 2-Akram lodged an FIR against Taskeen, Mashkher, Irshad & Mashkoor under section 364, 307 I.P.C. The applicant was not named in the said FIR and there is no allegation against the applicant that he has committed the said offence.

4. The learned counsel for the applicant was asked by the Court that as to how the name of the applicant came into light. The learned counsel for the applicant has fairly conceded that the present applicant was not

named in the FIR and his name came into light in the statement recorded under section 161 Cr.P.C. The learned counsel for the applicant contended that the respondent No. 2 stated under section 161 Cr.P.C. that the name of the person nominated in F.I.R. was written due to mistake and the offence was committed by the applicant and the person named in the F.I.R. The learned A.G.A. refuted the contention and contended that this Court cannot decide as to whether the evidence is reliable or not. It has been held by the Hon'ble Apex Court in **M. Narayandas Vs. State of Karnataka 2004 Cri.L.J. p/822** that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases,; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprise. It has also been held in **State of Karnataka Vs. M. Devendrappa & another 2002(2) SBR p/151** that while exercising jurisdiction under section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is function of the trial court.

5. It is not permissible for the High Court to look into materials, the acceptability of which is essentially a matter of trial. While exercising jurisdiction under section 482 Cr.P.C., it is not possible for this Court to

act as if it is a trial court. {**State of M.P. Vs. Awadh Kishore Gupta and others SCC (Cri) 2004 p/353}.**

6. In view of the above, the petition lacks merit and is dismissed.

7. In case the bail application of the applicant is moved before the court below, the same shall be disposed of expeditiously without waste of time.

(J.C.S. Rawat, J.)

Dated 22.07.2005

LSR